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PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

| DUE DATE DIARY | |
|----------------|--------------|
| ACTION | DUE DATE |
| WO | FEB 28/05 AE |

PCT

To:

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WRITTEN OPINION
(PCT Rule 66)

Date of mailing
(day/month/year) 28.01.2005

Applicant's or agent's file reference
SJ-11923-1WO

REPLY DUE within 1 month(s)
from the above date of mailing

International application No.
PCT/CA 03/01957

International filing date (day/month/year)
19.12.2003

Priority date (day/month/year)
10.01.2003

International Patent Classification (IPC) or both national classification and IPC
B29C47/70, B29C47/58, B29C47/06

Applicant
LUPKE, Manfred, A. A. et al.

- This written opinion is the **second** drawn up by this International Preliminary Examining Authority.
- This opinion contains indications relating to the following items:
 - ☒ Basis of the opinion
 - ☐ Priority
 - ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - ☐ Lack of unity of invention
 - ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - ☐ Certain documents cited
 - ☐ Certain defects in the international application
 - ☐ Certain observations on the international application
- The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
- The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 10.05.2005

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WRITTEN OPINION

JC20 Rec'd PCT/PTO. 07 JUL 2005
International application No. PCT/CA 03/01957

I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-6 as originally filed

Drawings, Sheets

1/6-6/6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

WRITTEN OPINIONInternational application No. **PCT/CA 03/01957**

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

| | | |
|-------------------------------|--------|-----|
| Novelty (N) | Claims | |
| Inventive step (IS) | Claims | 1-6 |
| Industrial applicability (IA) | Claims | |

2. Citations and explanations**see separate sheet**

Reference is made to the following document:

D1: WO 00/07801 A

The documents D2 to D4 were not cited in the international search report. Copies of the documents are appended hereto.

D2: EP-A-0 363 716

D3: DE 40 10 404 A1

D4: US-A-4 362 482

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 The document D1 is regarded as being the closest prior art to the subject-matter of claim 1 and, insofar as this claim can be understood (see paragraphs 4 and 5), this document shows an equipment used in the molding of a plastic pipe (see abstract) comprising the following features (the references in parentheses applying to this document):

- a plastic supply which provides molten plastic for making the pipe (see figures, element 29),
- die tooling having an internal die passage to carry the molten plastic to a molding region where the pipe is shaped, the die tooling having an upstream end fitted with a flow distributor the die passage having a ring shaped mouth covered by the flow distributor at the upstream end of the die tooling (see figures, elements 13a, 13b),
- the plastic supply being located remotely of the die tooling and said equipment including a plastic feed from the plastic supply to the flow distributor (see figures).

The subject-matter of claim 1 differs from the document D1 in that the flow distributor having a first plastic flow path which is adjustable.

However, adjustments on flow paths or plastic flows are operational means which the person skilled in the art would take at his discretion and do not appear to involve an inventive step (Article 33(3) PCT).

Furthermore, documents D2 (see figure, element 52), D3 (see figure, elements 44, 49) and D4 (see figure 13, element 204) shows adjust mechanisms similar to the ones used in the application. It would be obvious to the person skilled in the art, namely when the same result is to be achieved, to apply these features with corresponding effect to an equipment according to document D1, thereby arriving at an equipment according to claim 1.

Thus, the subject-matter of claim 1 can not be considered as involving an inventive step (Article 33(3) PCT).

- 2 In view of document D1 (see e.g. figures), the additional features set out in dependent claims 2 to 5 are already known and therefore the subject-matter of these claims is also not inventive (Article 33(3) PCT).
- 3 In claim 6 a slight constructional change (connecting branch 22) in the apparatus of claim 2 is defined which comes within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of claim 6 can not be considered as involving an inventive step (Article 33(3) PCT).

CLARITY OBJECTIONS

- 4 Claim 1 does not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claim attempts to define the subject-matter in terms of the result to be achieved ("*...which is adjustable to produce an even distribution...*") which merely amounts to a statement of the underlying problem. The technical features necessary for achieving this result should be added.
- 5 Claim 1 does not meet the requirements of Article 6 PCT because it is not clear whether the element which is adjustable is the flow path as such or the plastic flow.

MINOR OBJECTIONS

- 6 Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 7 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 8 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.

If the Applicant wishes to file amendments, he is requested to take note of the following:

- Amendments should be filed by way of replacement pages in the manner stipulated by Rule 66.8(a) PCT. In particular, fair copies of the amendments should be filed preferably in triplicate.

Moreover, the applicant's attention is drawn to the fact that, as a consequence of Rule 66.8(a) PCT the examiner is not permitted to carry out any amendments under the PCT procedure, however minor these may be.

- In order to facilitate the examination of the conformity of the amended application with the requirements of Article 34(2)(b) PCT, the applicant is requested to clearly identify the amendments carried out, no matter whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based (see also Rule 66.8(a) PCT).
- Rule 6.3 b) PCT (Two-part form)

**WRITTEN OPINION
SEPARATE SHEET**

International application No. PCT/CA 03/01957

- Rule 11.14 PCT (Formal requirements for later documents)